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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/474,671   | 12/29/1999  | CASSANDRA J. MOLLETT | FDC-0149-PUS        | 2544             |
| 22045  | 7590        | 12/19/2003           | EXAMINER            |                  |
| BROOKS KUSHMAN P.C.<br>1000 TOWN CENTER<br>TWENTY-SECOND FLOOR<br>SOUTHFIELD, MI 48075 |             |                      | RUDY, ANDREW J      |                  |
|  |             | ART UNIT             | PAPER NUMBER        |                  |
|  |             | 3627                 |                     |                  |

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                    |                |
|------------------------------|--------------------|----------------|
| <b>Office Action Summary</b> | Application No.    | Applicant(s)   |
|                              | 09/474,671         | MOLLETT ET AL. |
|                              | Examiner           | Art Unit       |
|                              | Andrew Joseph Rudy | 3627           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 25 September 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-6,8 and 9 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8 and 9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \*    c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. The Final Rejection from Paper No. 9, mailed May 27, 2003 is withdrawn pursuant to Applicant's Appeal Brief.
2. Claims 1-6, 8 and 9 are pending. Claim 7 has been cancelled by the Applicant from the April 9, 2003 Amendment, Paper No. 8.

### ***Claim Rejections - 35 USC § 101***

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the

"progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the claim language does not preclude everything from being done in ones head. The classifying, receiving, determining, scores and subscores, etc. reiterated in the claims do not preclude each from being done in ones mind alone or in combination with pen and pencil.

Further, no technological art is presently claimed.

Applicant's REMARKS have been reviewed, but are not convincing. The processing of the checks need not contain any technology as presently claimed. See, Ex Parte Bowman, 61 USPQ2d 1165, 1671 (BD. Pat. App. &: Inter. 2001) (Unpublished). Though Bowman is not precedent, its value is cited for its analysis. Also, see MPEP 2106 IV 2(b). Again, the recent Supreme Court decision citations and the fact that the present application is neither a law of nature nor a natural phenomenon, the claims in question do not rise to the level of patentable subject matter. It is noted no claimed algorithm is recited in the claims. Reiterating, Applicant's claim language may be executed in ones mind and/or with pen and pencil. As is, the claims in question are abstract in nature and don't produce a useful, concrete, and tangible result.

***Claim Rejections - 35 USC § 112***

5. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant's comments have been reviewed, but are not convincing. Claim 8, line 10, "the time period" lacks antecedent basis (is it the "one time period" from line 2 or "each of the at least one time period" from lines 5 or 8). As is, it is not clear what is being referenced.

Correction is required. No new matter may be entered. It is noted Applicant could overcome this rejection by adding the modifier "at least one" before the phrase "time period" in both lines 2 and 10. As is, it is not clear what is being referenced.

***Claim Rejections - 35 USC § 103***

6. Claims 1-6, 8 and 9, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Templeton.

Walker discloses a system for approving a money limit for a time period comprising: storing historical data in a central controller 12 and authorizing the charge, e.g. 362, of an entity if a credit score, e.g. cols. 10-11, is acceptable so that funds may be collected over a time period, e.g. installment plan database 50, Fig. 13, depending upon the classification of the entity from a

plurality of stores, e.g. 14, 16, 18. The credit scoring of Walker is deemed to be within a range of scores and is deemed to comprise the word scrubbed. Walker does not specifically disclose a check cashing and a check writer using his system, though he does disclose credit situations that are parallel to check writing.

Templeton discloses, e.g. Fig. 1, a method using a computer for determining whether to collect from check writers from data comprising a negative file 85, a positive file 87 containing identification information and a credit risk scoring algorithm 90, e.g. cols. 12-14. Templeton does not specifically indicate a time period, but does indicate that the negative file 85 is "continuously updated" (col. 12, line 59) and that the positive file 87 is used (col. 13, lines 18-34) to determine suitability of cashing a check. Templeton inherently contains categories to ascertain whether a check will be honored or not. It is common knowledge and well known in the art that various specified time periods are used by financial institutions, e.g. a bank or a traditional mom and pop grocery store, when assessing whether or not to cash a check, e.g. an entity may hold ones check over a time period before deciding to cash the check. To have provided the various specified time periods for Walker to have comprised a checking system similar to Templeton, would have been obvious to one of ordinary skill in the art. Doing such would use well known time period factors to provide a more complete and updated database for risk assessment when cashing a check. To have provided the negative file of Walker as modified by Templeton, to comprise a scrubbed file would have been obvious to one of ordinary skill in the art.

7. Further pertinent references of interest are included on PTO-892.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808. The examiner can normally be reached on Tuesday thru Friday, 7:30 a.m until 6 p.m..

The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, appearing to read "Andrew Joseph Rudy".